

REMARKS

Paragraphs 1-19 of the Office Action

5 Claims 1, 2, 3, 4, and 9 are rejected under 35 USC §102(b) as being anticipated by Shulman. Claims 1-4 and 6-9 are rejected under 35 USC §102(b) as being anticipated by Saurer. Claim 5 is rejected under 35 U.S.C. §103(a) as being unpatentable over Shulman in view of Hoogland. Claims 5 and 10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Saurer as applied to claims 1-4 and 6-9 above and in view of Hoogland.

10 Claims 1 and 10 have been amended to better define the bird seed specified in the specification as a solid mass, which is removably attached to the coupler. Claim 1 has also been amended to include the limitations of as-filed claim 4. The structure of applicant's device is particularly well suited for holding and supporting a seed bell in a manner that is easily accessible to a bird.

15 The Examiner has cited Shulman for the elements found in claims 1-4 and 9 of the claimed invention. However, Shulman in no manner discloses a bird feeder. Shulman does not show a coupler that is adapted for holding a seed bell so that it is suspended. Instead, the areas #15 and #17 shown in Shulman are male and female mating members adapted for attaching a swing perch 21 to a cage. Elements 11 and 12, which the Examiner states are legs, are not legs but wires of a frame which are clearly
20 shown in Figure 2 of Shulman. The cage would prevent access by a bird and therefore cannot be a bird feeder. Thus, the combination of Shulman, even if it did include a coupler as stated by applicant, with Hoogland would still form a cage and thus there would be no motivation for such a combination as Hoogland and Shulman have divergent
25 purposes and therefore divergent structures. As to claim 3 of applicant, which includes a hook, and the Examiner's contention that Shulman shows a hook, there is no such item shown in Shulman. As the Examiner states, the hook is formed by "the nut attached to perpendicular element #19...." A nut positioned on a threaded rod is not a hook but a device for securing element #17 on element #19. If the Examiner is stating that the
30 coupler is element #15 and #17, how can the coupler also be a nut on element #19? Regardless, the definition of a hook is, "a curved or sharply bent device ... used to catch,

drag, suspend, or fasten something else.” Microsoft Bookshelf 98. Shulman simply does not show a hook. As the elements, as described and claimed by applicant, are neither shown nor disclosed within Shulman, there cannot be a 102 or a 103 rejection based on Shulman.

5 As to Saurer, the Examiner again states the majority of applicant’s elements are found therein. However, the Examiner again misrepresents two different elements for the coupler of applicant’s device. First, the element #14 is stated to be a coupler. However, element 14 is clearly not a coupler but “the vertically disposed cylindrical foot container 14....” Column 2, line 30-31. Second, the Examiner then states that element #23 is a
10 coupler, however, element #23 are straps that attached to element #14. Column 2, line 55 which are not adapted for holding seed but attach a seed dropping assembly to the container #14. Additionally, the “legs #13” of Saurer are not attached to the cover but are attached to the container 14. Accordingly, as was the case with Shulman, neither a 102 nor a 103 objection can be formed with Saurer since the elements shown in Saurer
15 are not analogous to the elements of applicant’s device.

Hoogland has been cited for the finding of a particular upper wall. While the upper wall might, under some circumstances, be analogous to applicant’s cover, there can be no motivation to combine Hoogland with either Saurer or Shulman as the combination does not form applicant’s device as claimed. The combination with Shulman in not
20 obvious as Shulman is a bird cage for holding birds therein and in no way defines, describes or contemplates a bird feeder. The combination with Saurer may be equally dismissed as Hoogland relies on a webbing and upper wall to keep squirrels away from a mass of birdseed. Saurer already includes a cover and thus there is no reason for Saurer to be combined with Hoogland. For these reasons, there can be no motivation to combine
25 either Saurer or Shulman with Hoogland.

Since the elements of applicant’s device are not found in the prior art and any combination of the prior art would neither form applicant’s device nor provide motivation for the combination, it is believed that amended claims 1 and 10, and all claims depending from claim 1, are in condition for allowance.

30 The applicant respectfully requests withdrawal of the rejection.

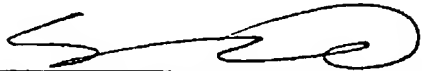
CONCLUSION

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In light of the foregoing amendments and remarks, early consideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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